

**REMARKS**

This is a full and timely response to the non-final Office Action of February 6, 2008.

Reexamination, reconsideration, and allowance of the application and all presently pending claims are respectfully requested.

Upon entry of this First Response, claims 1-25 remain pending in this application, and claims 1, 2, 4, 5, 11, 12, 15, 17, and 19-25 are directly amended herein. It is believed that the foregoing amendments add no new matter to the present application.

In the Office Action, it is alleged that there is insufficient antecedent basis for the limitation "said communication device" on line 2 of claim 11. However, Applicants observe that claim 11 depends from claim 10, which depends from claim 9, and the term "a communication device" is introduced on lines 1-2 of claim 9. Thus, Applicants respectfully assert that there is sufficient antecedent basis for the limitation "said communication device" in claim 11.

**Response to §102 Rejections**

A proper rejection of a claim under 35 U.S.C. §102 requires that a single prior art reference disclose each element of the claim. See, e.g., *W.L. Gore & Assoc., Inc. v. Garlock, Inc.*, 721 F.2d 1540, 220 U.S.P.Q. 303, 313 (Fed. Cir. 1983).

### Claim 1

Claim 1 presently stands rejected under 35 U.S.C. §102 as allegedly anticipated by Sugawara (U.S. Patent No. 5,313,456). Claim 1, as amended, reads as follows:

1. A data communication system for communicating data between a central office and a customer premises that is remotely located from said central office, comprising:

*a first transceiver coupled to a first subscriber line extending from said central office to said customer premises, said first transceiver configured to communicate with a transceiver located at said central office;*

*a second transceiver coupled to a second subscriber line extending from said central office to said customer premises; and*

*control logic residing at said customer premises, said control logic configured to detect an error condition associated with communication between said first transceiver and said transceiver located at said central office, said control logic configured to transmit, in response to a detection of said error condition, a switch notification to said central office via said second transceiver and said second subscriber line, wherein at least one component at said central office is configured to route data over said second subscriber line in response to said switch notification.* (Emphasis added).

Applicants respectfully assert that Sugawara fails to disclose at least the features of claim 1 highlighted hereinabove. Thus, the 35 U.S.C. §102 rejection of claim 1 should be withdrawn.

In this regard, it is alleged in the Office Action that Figure 3 of Sugawara shows the features of claim 1. However, Figure 3 apparently shows a “central office terminal” that is connected to a “remote terminal.” There is nothing in Sugawara to indicate that the “remote terminal” is at a “customer premises” or that the connections between the “remote terminal” and the “central office terminal” are “subscriber lines.” To the contrary, it appears that the “remote terminal,” like the “central office terminal” described by Sugawara, is a network facility that provides switching functions for “subscriber lines,” albeit a smaller number of “subscriber lines” so that it is likely unattended requiring control and supervision by the “central office terminal.” See column 4, lines 1-11. Accordingly, Applicants respectfully assert that Sugawara fails to disclose at least “a first transceiver coupled to a first **subscriber line** extending from said central office to said **customer premises**,” “a second transceiver coupled to a second **subscriber line** extending

from said central office to said ***customer premises***," and "control logic residing at said ***customer premises***," as recited by claim 1. (Emphasis added).

For at least the above reasons, Applicants respectfully asserts that Sugawara fails to suggest each feature of claim 1. Therefore, the 35 U.S.C. §102 rejection of claim 1 should be withdrawn.

### **Claims 2-11**

Claims 2-11 presently stand rejected in the Office Action under 35 U.S.C. §102 as allegedly anticipated by Sugawara. Applicants submit that the pending dependent claims 2-11 contain all features of their respective independent claim 1. Since claim 1 should be allowed, as argued hereinabove, pending dependent claims 2-11 should be allowed as a matter of law for at least this reason. *In re Fine*, 5 U.S.P.Q.2d 1596, 1600 (Fed. Cir. 1988).

### **Claim 12**

Claim 12 presently stands rejected under 35 U.S.C. §102 as allegedly anticipated by Sugawara. Claim 12, as amended, reads as follows:

12. A data communication system having a central office and a customer premises that is remotely located from said central office, comprising:

***a first transceiver coupled to a first subscriber line extending from said central office to said customer premises***, said first transceiver configured to communicate, via said first subscriber line, with a transceiver located at said central office;

***a second transceiver coupled to a second subscriber line extending from said central office to said customer premises***;

***a communication device in communication with said first transceiver; and***

***control logic residing at said customer premises, said control logic configured to initiate, in response to a detection of an error condition, a backup switch such that said communication device communicates with said second transceiver in lieu of said first transceiver, said control logic further configured transmit information indicative of said backup switch to said central office***, wherein data destined for said communication device is

transmitted, based on said information, to said second transceiver via said second subscriber line in lieu of said first subscriber line. (Emphasis added).

For at least reasons similar to those set forth above in the arguments for allowance of claim 1, Applicants respectfully assert that *Sugawara* fails to disclose at least the features of claim 12 highlighted hereinabove. Thus, the 35 U.S.C. §102 rejection of claim 12 should be withdrawn.

### **Claims 13-16**

Claims 13-16 presently stand rejected in the Office Action under 35 U.S.C. §102 as allegedly anticipated by *Sugawara*. Applicants submit that the pending dependent claims 13-16 contain all features of their respective independent claim 12. Since claim 12 should be allowed, as argued hereinabove, pending dependent claims 13-16 should be allowed as a matter of law for at least this reason. *In re Fine*, 5 U.S.P.Q.2d 1596, 1600 (Fed. Cir. 1988).

### **Claim 17**

Claim 17 presently stands rejected under 35 U.S.C. §102 as allegedly anticipated by *Sugawara*. Claim 17, as amended, reads as follows:

17. A data communication system having a central office and a customer premises that is remotely located from said central office, comprising:

a chassis for holding a first customer premises transceiver and a second customer premises transceiver, ***said first customer premises transceiver coupled to a first central office transceiver via a first subscriber line extending from said central office to said customer premises, said second customer premises transceiver coupled to a second central office transceiver via a second subscriber line extending from said central office to said customer premises;*** and

***control logic mounted on said chassis, said control logic configured to initiate a backup switch in response to a detection, by said control logic, of an error condition associated with communication occurring over said first subscriber line,*** said control logic configured to switch said communication from said first subscriber line to said second subscriber line, wherein at least one component at said central office is responsive to said control logic for routing data to said second central office transceiver in lieu of said first central office transceiver. (Emphasis added).

For at least reasons similar to those set forth above in the arguments for allowance of claim 1, Applicants respectfully assert that Sugawara fails to disclose at least the features of claim 17 highlighted hereinabove. Thus, the 35 U.S.C. §102 rejection of claim 17 should be withdrawn.

### **Claims 18-20**

Claims 18-20 presently stand rejected in the Office Action under 35 U.S.C. §102 as allegedly anticipated by Sugawara. Applicants submit that the pending dependent claims 18-20 contain all features of their respective independent claim 17. Since claim 17 should be allowed, as argued hereinabove, pending dependent claims 18-20 should be allowed as a matter of law for at least this reason. *In re Fine*, 5 U.S.P.Q.2d 1596, 1600 (Fed. Cir. 1988).

### **Claim 21**

Claim 21 presently stands rejected under 35 U.S.C. §102 as allegedly anticipated by Sugawara. Claim 21, as amended, reads as follows:

21. A method for communicating between a central office and a customer premises that is remotely located from said central office, comprising the steps of:

***communicating between a first customer premises transceiver and a first central office transceiver via a first subscriber line extending from said central office to said customer premises;***

***detecting an error condition associated with said communicating step;***

***transmitting, in response to said error condition, a switch notification from a second customer premises transceiver to a second central office transceiver via a second subscriber line extending from said central office to said customer premises; and***

***performing a backup switch in response to said switch notification such that a communication device previously communicating over said first subscriber line switches to communicating over said second subscriber line. (Emphasis added).***

For at least reasons similar to those set forth above in the arguments for allowance of claim 1, Applicants respectfully assert that *Sugawara* fails to disclose at least the features of claim 21 highlighted hereinabove. Thus, the 35 U.S.C. §102 rejection of claim 21 should be withdrawn.

**Claims 22-25**

Claims 22-25 presently stand rejected in the Office Action under 35 U.S.C. §102 as allegedly anticipated by *Sugawara*. Applicants submit that the pending dependent claims 22-25 contain all features of their respective independent claim 21. Since claim 21 should be allowed, as argued hereinabove, pending dependent claims 22-25 should be allowed as a matter of law for at least this reason. *In re Fine*, 5 U.S.P.Q.2d 1596, 1600 (Fed. Cir. 1988).

**CONCLUSION**

Applicants respectfully request that all outstanding objections and rejections be withdrawn and that this application and all presently pending claims be allowed to issue. If the Examiner has any questions or comments regarding Applicants' response, the Examiner is encouraged to telephone Applicants' undersigned counsel.

Respectfully submitted,

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& RISLEY, L.L.P.**

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